

## **Opportunity for Scoping and Public Comment on the Proposed Action and Preliminary Environmental Assessment for the Aquatic Invasive Species Law Enforcement Order for the Pacific Northwest Region of the USDA Forest Service**

The Pacific Northwest Region of the USDA Forest Service is proposing to issue a long-term, Region-wide (Figure 1) aquatic invasive species law enforcement order that would prohibit possession of aquatic invasive species to prevent the spread or introduction of aquatic invasive species on National Forest System lands. A final environmental assessment (EA) will be prepared to document the environmental effects associated with implementing the order following receipt of comments on this proposed order and preliminary assessment. Examples of aquatic invasive animal and plant species include, but are not limited to, zebra mussels, New Zealand mudsnails, yellow flag iris, and nonnative milfoils. These species are commonly transferred between water bodies by boats, boat trailers and recreational gear. The order would also help maintain native species populations and provide recreation and aesthetic benefits for present and future forest users across Pacific Northwest National Forest System lands.

This proposal is a follow up to the March 3, 2015 decision that authorized the Pacific Northwest Region to immediately implement a one year law enforcement order consistent with the Code of Federal Regulations (CFR's) stated below.

This proposed order would provide prohibition of possession of aquatic invasive species which would enable Forest Service law enforcement officers to enforce two federal regulations (36 CFR 261.58(s) and 36 CFR 261.58(t)) associated with protecting National Forest System lands from aquatic invasive species. The enforcement of these regulations would increase the Agency's consistency with the invasive species statutes of the states of Oregon and Washington. The proposed order is described below in this preliminary environmental assessment.

### **Purpose and Need:**

The purpose and need for the proposal is to protect National Forest system lands from aquatic invasive species (AIS) which include both aquatic plant and animal species. The Pacific Northwest region of the USDA Forest Service is proposing an order to enable law enforcement officers to enforce an existing aquatic invasive species law, protecting National Forest System lands from aquatic invasive species. The purpose of this order is to prevent the spread or introduction of aquatic invasive plant and animal species. These invasive species are commonly transferred between water bodies by boats, trailers, and recreational gear. This order will also help maintain native species populations and provide recreation and aesthetic benefits for present and future forest users across National Forest System lands.

### **Proposed Action:**

The Forest Service is proposing to issue a long term order, pursuant to 36 CFR 261.50(a), prohibiting the following acts upon lands and waters within the National Forest System lands of the Pacific Northwest Region as described below.

- 1. Possessing, storing or transporting any bird, fish, or other animal or parts thereof, as specified in the order. [36 CFR 261.58(s)].**

For the purpose of this order, it is prohibited to possess, store, or transport any live aquatic invasive species within the boundaries of National Forest System lands in the Pacific Northwest region. Examples of aquatic invasive animal species include, but are not limited to, zebra mussels, quagga mussels, New Zealand mudsnails, rusty crayfish, ringed crayfish, red swamp crayfish, Northern crayfish, nutria, bullfrogs, snakeheads, Chinese mystery snail, brook trout, walleye, bass, perch, goldfish, pike, catfish, and carp. Those species designated as gamefish or crayfish in the States of Oregon or Washington may be transported by anglers within the National Forest System Boundaries of the Pacific Northwest Region if the animals are no longer living.

**2. Possessing, storing, or transporting any part of a tree or other plant as specified in the order. [36 CFR 261.58(t)]**

For the purpose of this order, it is prohibited to possess, store, or transport any live aquatic or riparian invasive plant species within the boundaries of National Forest System lands in the Pacific Northwest Region. Examples of aquatic and riparian invasive plant species include, but are not limited to, yellow flag iris, hydrilla, nonnative milfoils, yellow floating heart, purple loosestrife, Japanese knotweed, giant knotweed, salt cedar, and kudzu.

In addition to the proposed action, the no action alternative will also be considered.

**Preliminary Effects Analysis on the Proposed Action:**

The following summary of effects of the proposed action in terms of context and intensity are described below:

1. Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

The proposed order is not ground disturbing and is an administrative action only. Enforcement of the order is expected to prevent or curtail the spread of aquatic invasive species and would have a neutral or overall beneficial effect to natural resources across the Pacific Northwest Region.

2. The degree to which the proposed action affects public health or safety.

The proposed order is not ground disturbing and is an administrative action only. Enforcement of the order is expected to protect public health and safety by preventing or curtailing the spread of aquatic invasive species.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

The proposed order is not ground disturbing and is an administrative action only. Enforcement of the order is expected to protect unique characteristics of wetlands

and wild and scenic rivers by preventing or curtailing the spread of aquatic invasive species.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

The proposed order is not ground disturbing and is an administrative action only. Enforcement of the order is not scientifically controversial and based on the public input received on the short-term closure order, is not controversial to the general public.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

The proposed order is not ground disturbing and is an administrative action only. Enforcement of the order would not involve any uncertain, unique or unknown risks.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

The proposed order is not ground disturbing and is an administrative action only. Enforcement of the order will not establish a precedent for future actions, as any future decisions or actions would need to comply with the analysis requirements of the National Environmental Policy Act.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

The proposed order is not ground disturbing and is an administrative action only. Enforcement of the order will have no direct effects, but will indirectly result in a decrease in the spread of aquatic invasive species. There are no other administrative orders that overlap temporally or spatially with this order to contribute to a cumulative effect of administrative actions that prohibit the spread of aquatic invasive species.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

The proposed order is not ground disturbing and is an administrative action only. Enforcement of the short term order was determined to not adversely affect any scientific, cultural or historic resource or any listed or eligible property on the

National Register of Historic Places; enforcement of this order is expected to have the same determination.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

The proposed order is not ground disturbing and is an administrative action only. Enforcement of the order is expected to beneficially affect listed species and their critical habitat by preventing or curtailing the spread of aquatic invasive species.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The proposed order is not ground disturbing and is an administrative action only. Enforcement of the order will allow the agency to comply with State statutes and rules that are already in place for protection of the environment.

A copy of the proposed action can be downloaded from the Pacific Northwest website at [http://data.ecosystem-management.org/nepaweb/nepa\\_project\\_exp.php?project=47350](http://data.ecosystem-management.org/nepaweb/nepa_project_exp.php?project=47350).

### **Scoping and Comment Period:**

You were identified in the scoping process as someone who might be interested in this planning effort. Public input is a vital part of the planning process. As part of planning we invite your comments on the proposed order. Your specific written comments will be used to determine if there are any issues associated with implementing the order.

A final EA will be prepared after comments are received and considered. Comments on the proposed action should be addressed to Jim Peña, Regional Forester, in care of Jim Capurso, Regional Fisheries Biologist. Comments can be written and mailed to the address on the letterhead above (or to PO Box 3623, Portland, OR 97208). You may also hand-deliver your comments during normal business hours, which are 8:00 to 4:30 Monday through Friday, excluding Federal holidays, to 1220 SW 3rd Avenue, Portland, OR, 97204. Comments may be submitted electronically to [comments-pacificnorthwest-regional-office@fs.fed.us](mailto:comments-pacificnorthwest-regional-office@fs.fed.us).

The 30-day legal notice and comment period pursuant to 36 CFR 218.24 on this proposed order will begin the day after the date of publication of the legal notice in *The Oregonian* newspaper. Comments must be signed or in the case of electronic or submissions, commenters must verify their identity upon request to be eligible to object. Comments postmarked after the 30-day comment period has ended will not be considered. This comment period is intended to provide those interested in or affected by this proposal an opportunity to make their concerns known prior to a decision being made by the Responsible Official; no other comment periods are expected to be offered on this proposed order and preliminary assessment.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record for this project, available for public inspection, and released, if requested under the Freedom of Information Act.

In 2013, a final rule revising 36 CFR Part 218 was published in the Federal Register. The new rule instituted a pre-decisional objection process that replaced the previous appeal rules defined in 36 CFR 215. The new rule provides the public an opportunity to comment and express concerns on projects before decisions are made, rather than after. The Forest Service believes this aligns with our collaborative approach to forest management and increases the likelihood of resolving those concerns, resulting in better, more informed decisions.

The new rule provides the public an opportunity to seek higher-level review of unresolved concerns before the project decision has been signed, rather than having to appeal a signed decision. Individuals and entities who have submitted specific written comments at this stage will be eligible to object. Issues raised in objections must be based on previously submitted written comments specific to the proposed project or activity unless the objection concerns an issue that arose after the opportunities for comment. Comments received during this public review of the proposed action will be considered and a Final Environmental Assessment and draft Decision Notice will be released for a 45 day review and objection period. For more information on 36 CFR Part 218, see the Federal Register, Volume 78, No. 59, March 27, 2013 or visit this web site: [http://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb5442113.pdf](http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5442113.pdf)

If you have any questions or would like additional information, please contact James Capurso, Regional Fisheries Biologist, at 503-808-2847 or [jcapurso@fs.fed.us](mailto:jcapurso@fs.fed.us).

Jim Peña

REGIONAL FORESTER

Enclosure

Figure 1. Pacific Northwest Region National Forest System Lands

